

Sunset Public Hearing Questions for
TENNESSEE STATE PUBLIC LIVESTOCK MARKET BOARD
Created by Section 44-12-106, *Tennessee Code Annotated*
(Sunset termination June 2010)

1. Provide a brief introduction to the Public Livestock Market Board, including information about its purpose, statutory duties, staff and administrative attachment.

The Public Livestock Market Board (Board) reviews applications for Livestock Market Charters filed with the commissioner of agriculture for evaluation of granting the issuance of a charter to conduct such business. In reviewing an application, the board considers the following: 1) the financial stability and business integrity of the applicant; 2) the adequacy of the facility; 3) the availability of other markets in the area; 4) whether the market is intended to be permanent and continuous; 5) the benefits to the livestock industry of the proposed market; and 6) the economic feasibility of the proposed market. The statute which creates the Board states as its purpose, "to encourage, stimulate and stabilize the agricultural economy of this state in general, and the livestock economy in particular, by encouraging the construction, development and productive operation by public livestock markets as a key industry of the state with all benefits of fully open, free, competitive factors, in respect to the sales and purchases of livestock.

2. Provide a list of current board members and describe how membership complies with Sections 44-12-106 and 107, *Tennessee Code Annotated*. Who appoints members? Are there any vacancies on the board? If so, what steps have been taken to fill the vacancies?

*Dean Williams – Athens - East TN Livestock Market owner
Paul Fugate – Tazewell - East TN Livestock producer
- Vacant - Middle TN Livestock Market owner
William T. Young – Pulaski - Middle TN Livestock producer
Amy Hutchison – Trenton - West TN Livestock Market owner
Ronnie Yeargin – Greenfield - West TN Livestock producer
Ken Givens – Commissioner, Tennessee Department of Agriculture*

The Charter Board is made up of a market operator and a livestock producer from each of the grand divisions of the state with the Commissioner of Agriculture serving as the seventh member.

Members are appointed for a 4 year term by the Governor. The Middle Tennessee Livestock Market owner position on the committee became vacant as of the middle of August 2009.

3. Does membership include a member who is sixty years of age or older? A member who is a racial minority? A member who is female?

At least one Board member is sixty years of age or older. A racial minority is not represented on the Board at this time. There is a female member of the Board.

4. What per diem or travel reimbursement do members receive? How much was paid to board members during fiscal years 2008 and 2009?

Board members receive a payment of \$25.00 per day the Board conducts official business. Travel expenses are also paid to the members in accordance with the provisions of the comprehensive travel regulations.

Amount paid to board members: FY 08 = \$4,619.45 FY 09 = \$2,949.31

5. What were the board's revenues (by source) and expenditures (by object) for fiscal years 2008 and 2009?

Revenue (source 218):

<i>FY 08</i>	<i>\$1,000.00</i>	<i>FY 09</i>	<i>\$ 750.00</i>
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Expenses: FY 08 (source)

<i>Mileage (030)</i>	<i>\$3,571.88</i>
<i>Lodging (032)</i>	<i>372.57</i>
<i>Per Diem (034)</i>	<i><u>675.00</u></i>
<i>Total</i>	<i>\$4,619.45</i>

FY 09 (source)

<i>Mileage (030)</i>	<i>\$2,242.94</i>
<i>Lodging (032)</i>	<i>356.37</i>
<i>Per Diem (034)</i>	<i><u>350.00</u></i>
<i>Total</i>	<i>\$2,949.31</i>

6. How many times did the board meet in fiscal years 2008 and 2009, and how many members were present at each meeting?

Meetings: FY 08: The board met 5 times - all members attended 4 meetings; all but 2 members attended 1 meeting

FY 09: The board met 2 times - all members attended the first meeting; all but 2 attended the second meeting

7. Is the board subject to Sunshine law requirements (Section 8-44-101 et seq., *Tennessee Code Annotated*) for public notice of meetings, prompt and full recording of minutes and public access to minutes? If so, what procedures does the board have for informing the public of its meetings, who keeps the official minutes of board meetings and what steps are taken to make the minutes available to the public?

As a "governing body" under Tenn. Code Ann. § 8-44-102(b)(1)(A), the board is subject to the Sunshine Law requirements under Tenn. Code Ann. § 8-44-101 et seq.

An announcement of the meeting is published in the local newspaper two consecutive weeks prior to the meeting. Announcement states the time, date, location, purpose of the meeting and an individual to be contacted for further information. Copies of the announcements are also sent to the applicant and all other licensed livestock markets and furnished upon request to any other interested person or association.

8. What were the major accomplishments of the board during fiscal years 2008 and 2009?

Seven market applications were evaluated and approved during those 2 fiscal years. One market's charter approval was approved contingent on an upgrade of their facilities.

9. What reports does the board prepare on its operations, activities and accomplishments and who receives the reports?

The activities of the board meetings are disclosed in minutes of the meetings. Tape recordings are also made at each meeting. A staff member of the department of agriculture prepares the minutes. The minutes of the previous meeting are approved by the board. The minutes are made available to anyone upon request.

10. Does the board have any policies in place to address potential conflicts of interest by board members, board employees, or other state employees who work with the board in any capacity? If yes, please describe.

None at this time – a conflict of interest policy will be presented at the next meeting for each member to acknowledge by affixing their signature to the policy.

11. Chapter 752, Public Acts of 1990, required the Department of Agriculture to provide members of the Government Operations Committee with a proposal for transferring the operations of the Public Livestock Market Board to the Department of Agriculture by February 1, 1991.

No plan was presented until the last sunset hearing of the board in 2003. At that time the department responded with a plan to transfer the operations of the board to the department, if the General Assembly decided to do so. However, at that time, the General Assembly took no action on such a transfer.

Is that plan still viable and what would be the advantages and disadvantages of such a move?

It is still viable to transfer the operations of the Public Livestock Market Board to the Department of Agriculture. The department would provide an application for licensure of the business when minimum requirements have been satisfied. The program would include annual renewal applications, inspections and civil penalties for repeat violations which is the process other business entities are regulated within the Department.

Advantages:

- 1. Increase efficiency and speed in evaluating applications.*
- 2. Decrease difficulty and expense in complying with application process (charter).*
- 3. Reduce state expenses and eliminate reimbursements to board members.*
- 4. Removes archaic requirements which are irrelevant, cumbersome to the applicant, and have been viewed by some as an unacceptable barrier to free trade.*
- 5. Brings the process more in line with the livestock programs in other states.*
- 6. Removes any possible conflict of interest between board members and competing charter applicants.*

Disadvantages:

1. None.

12. How many applications for public livestock markets did the board hear during fiscal years 2008 and 2009? How many applications were submitted? How many charters were issued and how many applications were rejected? How many markets are currently chartered in Tennessee and how has that number changed over the last 10 years?

	<u>Applications Submitted</u>	<u>Charters Issued</u>	<u>Applications Rejected</u>
<i>FY 08:</i>	<i>5</i>	<i>5</i>	<i>0</i>
<i>FY 09:</i>	<i>2</i>	<i>2</i>	<i>0</i>

Number of markets currently chartered: 38 (one pending approval on August 28th)
Note: There were 41 markets in 2003, at the last sunset hearing. There has been little change in the number of markets in the last decade.

13. Describe any items related to the board that require legislative attention and your proposed legislative changes.

In addition to sunset legislation presented by the respective chairs of the House and Senate Government Operations Committee the department would present legislation before the General Assembly to bring the livestock sales laws more in-line with modern regulations of such markets.

There are two statutes that pertain to livestock markets. One is the Public Livestock Market Charter Law (44-12-101 et. seq. passed in 1967), the other is the Community Sales Law (44-11-101 et seq.) passed in 1957. These two laws are confusing and results in difficulty in consistently and uniformly regulating businesses that operate a public market for livestock producers and buyers of livestock to transact business.

The department intends to submit for consideration a bill that will consolidate these two statutes into one, providing for consistent definitions, removing the necessity of a Board and placing the responsibility of licensing these businesses within the department of agriculture. Current law requires an audited financial statement prepared by a Certified Public Accountant or a Public Accountant be submitted with the application. The expense of obtaining such financial statement is significant and has prohibited small operators from submitting a complete application. The financial statement provides hindsight snapshot of the financial condition of the applicant and can significantly change quickly. Certain aspects of what is necessary to perform an audited financial statement may conflict with “generally accepted accounting principals”. The U.S. Packers & Stockyards (P&S) within USDA registers all stockyards and requires financial statements to be submitted with the original application and with a required annual report from each stockyard. The legislation would propose removing the requirement for an audited financial statement and stipulate that the market shall maintain registration with P&S – meaning their financial condition is being monitored. The Department seeks three essential components in

regulating livestock markets: 1) a license requirement; 2) a bond requirement that protects livestock producers in the event of a default (P&S requirements) 3) a provision requiring markets to compile and retain records for the purpose of monitoring livestock disease.

14. Should the board be continued? To what extent and in what ways would the absence of the board endanger the public health, safety or welfare?

The Department feels that the purpose of the Board can be fulfilled through a business application with the Department of Agriculture. Livestock Charter applications are currently being received and analyzed by the Department and then provided to the Board for their review. The Department would promulgate rules stipulating minimum facility standards (for safety of the attendees and the animals), renew licenses annually, provide routine inspections of the facilities and records of the business. The Department does not feel that the absence of the Board would endanger the public health, safety or welfare. It would provide more efficiency in permitting livestock market operations.

After review of livestock market laws in other states, the Department concludes that the overwhelming majority of states issue licenses (charters, permits, etc.) to markets without the mediation of any third party. The livestock laws around the country seem to employ a simplified application and direct administration. By amending the two current laws governing livestock markets (which were passed in 1957 and in 1967) into one with clear definitions and requirements, the Department will be able to bring Tennessee's livestock law into line with the livestock laws of other states.

15. Please list all board programs or activities that receive federal financial assistance and, therefore are required to comply with Title VI of the Civil Rights Act of 1964. Include the amount of federal funding received by program/activity.

The Board receives no federal assistance.

If the board does receive federal assistance, please answer questions 16 through 23. If the board does not receive federal assistance, proceed directly to question 22.

16. Does your board prepare a Title VI plan? If yes, please provide a copy of the most recent plan.

17. Does your board have a Title VI coordinator? If yes, please provide the Title VI coordinator's name and phone number and a brief description of his/her duties. If not, provide the name and phone number of the person responsible for dealing with Title VI issues.

18. To which state or federal agency (if any) does your board report concerning Title VI? Please describe the information your board submits to the state or federal government and/or provide a copy of the most recent report submitted.

19. Describe your board's actions to ensure that board staff and clients/program participants understand the requirements of Title VI.
20. Describe your board's actions to ensure it is meeting Title VI requirements. Specifically, describe any board monitoring or tracking activities related to Title VI, and how frequently these activities occur.
21. Please describe the board's procedures for handling Title VI complaints. Has your board received any Title VI-related complaints during the past two years? If yes, please describe each complaint, how each complaint was investigated, and how each complaint was resolved (or, if not yet resolved, the complaint's current status).
22. Please provide a breakdown of current board staff by title, ethnicity, and gender.

There is no dedicated staff relative to the board. An employee of the Department serves as the coordinator of the board. The employee is a white male and is in the position of Animal Health Technician.

23. Please list all board contracts, detailing each contractor, the services provided, the amount of the contract, and the ethnicity of the contractor/business owner.

There are not board contracts.